



Petition Number: 1604-VS-07

Subject Site Address: 303 East 161st Street (the "Property")

Petitioner: Noah Herron (Urban Farmer LLC) (the "Petitioner")

Request: The petitioner is requesting Variances of Development Standard for an Agritourism Use related to Landscaping Standards (Article 6.8), Screening of Receptacle and Loading Areas (Article 6.1), Off-street Parking Surfacing and Curbs (Article 6.14) and Architectural Standards (Article 6.3) in the AG-SF1: Agriculture / Single-Family Rural District.

Current Zoning: AG-SF1: Agriculture / Single-Family Rural District

Current Land Use: Agriculture / undeveloped

Approximate Acreage: 5.0 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Petitioner's Narrative
4. Site Plan Exhibit
5. Illustrative Character Exhibit

Staff Reviewer: Jesse M. Pohlman, Senior Planner

OVERVIEW

Location: The subject property is 5.0 acres +/- in size and located at 303 East 161st Street (see [Exhibit 2](#)). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District (the "AG-SF1 District"). The Property is currently tilled and undeveloped. The surrounding properties include a church, residential and agricultural uses.

Variances: As summarized in [Exhibit 3](#) (the "Petitioner's Narrative") and depicted in [Exhibit 4](#) (the "Site Plan Exhibit") and [Exhibit 5](#) (the "Illustrative Character Exhibit"), the Petitioner is requesting Variances of Development Standard to accommodate the proposed Agritourism Use, as further described in the accompanying Special Exception petition (1604-SE-01). If the Board rejects or denies the related Special Exception petition (1604-SE-01), then this petition is no longer relevant. The next section further details the variances requested.

SUMMARY OF VARIANCES

The proposed use is a hybrid of an agricultural use and non-residential use. As a result, applicable standards: (i) may not appropriately apply for the type of use in the AG-SF1 District (e.g., landscaping standards); (ii) require a variance to establish the specific application of standards (e.g., architecture); or (iii) need a variance to accommodate the unique character of the proposed use (e.g., parking and receptacle screening).

Variance #1: Landscaping Standards (Article 6.8): The petitioner requests the following landscaping standards not apply to the property:

- a) Minimum Lot Landscaping Requirements (Article 6.8(K))
- b) External Street Frontage Landscaping Requirements (Article 6.8(M))
- c) Buffer Yard Requirements (Article 6.8(N))
- d) Interior Parking Area Landscaping (Article 6.8(O)(1))

The Petitioner's Narrative states the property is proposed to consist of over two thousand (2,000) grape vines that will span the entire area of property and that the grape vines will require full sun and air circulation for viability. The property will otherwise include the required foundation plantings and perimeter parking area landscaping required by the UDO to enhance the proposed improvements on the property.

Variance #2: Accessory Use and Building Standards; Screening of Receptacles and Loading Areas (Article 6.1): The petitioner requests that Article 6.1(H)(3)-(7) requiring a masonry enclosure and gate not apply to the property.

Article 6.1(H)(3): Screening methods shall include a solid enclosure on all sides not less than six (6) feet in height above grade or two (2) feet above the receptacle, whichever is greater. The solid enclosure shall be a Masonry Material that matches or complements the Principal Building.

Article 6.1(H)(4): Enclosures shall be constructed of a Masonry Material that matches or complements the Principal Building, as illustrated in FIGURE 6.1(2): DUMPSTER ENCLOSURES.

Article 6.1(H)(5): Enclosures shall be equipped with opaque gates, as illustrated in FIGURE 6.1(2): DUMPSTER ENCLOSURES, that shall not be oriented towards residential properties or the Right-of-way, where possible.

Article 6.1(H)(6): Enclosures shall have separate pedestrian access openings that are configured to conceal the dumpster from view for daily access to dumpsters for waste disposal. Pedestrian access openings shall be substantially similar to those illustrated in FIGURE 6.1(3): DUMPSTER MAN-DOORS.



Article 6.1(H)(7): Enclosures, which include swinging, moveable doors, shall be kept closed at all times when said doors are not in active use.

The proposed architecture of the building is an agricultural theme and would not be consistent with the more traditional building materials and design standards of the UDO for other non-residential uses. As a result, rather than screen with a masonry wall, the petitioner is proposing that the screening will be provided with landscaping in accordance with Article 6.8(H)(2).

Article 6.8(H)(2) Landscaping Standards; General Screening Standards; Service and Loading Areas: Service and Loading Areas: Loading areas, loading docks, service areas, and maintenance areas shall be screened from residential uses and Rights-of-way. Screening shall be achieved by using either: (i) a six (6) feet high, completely opaque fence or wall; (ii) a six (6) feet high berm; (iii) a six (6) feet high screen of evergreen trees planted nine (9) feet on center in a double staggered row; or (iv) a combination of the aforementioned that accomplishes the same effect. See also Article 6.1 Accessory Use and Building Standards regarding dumpster enclosures.

Variance #3: Off-street Parking Surfacing and Curbs (Article 6.14): The petitioner requests that the standards of Article 6.14(G)(7) not apply to the property.

Article 6.14(G)(7) Parking and Loading Standards; Off-street Parking; Surfacing and Curbs: (a) Public Parking Areas and loading and unloading berths shall be paved with a dust proof or hard surface. All open off-street Parking Areas shall be improved with a compacted gravel or stone base and surfaced with all-weather, dustless material, in accordance with the City's Construction Standards. (b) The perimeter of all Parking Areas, and any islands located therein, shall be curbed and guttered, in accordance with the City's Construction Standards. (c) A stormwater collection, conveyance, detention and treatment system, designed in accordance with applicable City standards, policies and ordinances, shall be installed for all Parking Areas. (d) If the proposed on-site storm water quality best management practices require that curbing or alternative surfacing, or portions thereof, not be installed, then a waiver from the requirements of this subsection may be considered by the Public Works Department, in its discretion.

The petitioner is proposing a gravel driveway and parking surface, which the petitioner believes will better allow for storm water management for the grape vines.

In coordinating with the Department and Public Works Department, the petitioner has agreed to work with the City and County through the Detailed Development Plan review process to ensure adequate surface design, parking space delineation, and maintenance is still being provided (e.g., for storm water management, traffic circulation and management, and emergency equipment access).



Variance #4: Architectural Standards (Article 6.3): The petitioner requests that the standards of Article 6.3 (Architectural Standards) not apply to the property; rather, to enhance and contribute to the desired agricultural theming of the proposed use and surrounding properties, the petitioner agrees that buildings on the property will be substantially similar in quality and character to the Illustrative Character Exhibit (see [Exhibit 5](#)).

The proposed architecture of the building is an agricultural theme and would not be consistent with the more traditional building materials and design standards of the UDO for other non-residential uses. As a result, this variance will essentially establish an alternative design theme consistent with the character of the proposed use.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Suburban Residential” land use classification. As summarized below, the Special Exception is generally consistent with the goals and objectives of the Comprehensive Plan.

Development policies of this land use classification include¹: (i) promote the protection of the existing suburban character of the area; (ii) encourage only compatible infill development on vacant parcels in existing neighborhoods as means of avoiding sprawl and ensure that new development occurs in a way that is contiguous with existing development; (iii) new development should be permitted only upon a demonstration that it will not alter the character of the area, and will not generate negative land use impacts; (iv) ensure that infill development is compatible in mass, scale, density, materials and architectural style to existing development; and (v) ensure that new development adjacent to existing suburban is buffered.

The Comprehensive Plan identifies appropriate land uses in this land use classification to include: (i) detached dwellings; (ii) attached dwellings; (iii) institutional uses; (iv) recreational uses; (v) artisan farms²; and (vi) equestrian uses.

In addition, the intersection of 161st Street and Spring Mill Road was further studied in 2013 that resulted in an amendment to the Comprehensive Plan known as the [Spring Mill Station Plan](#), adopted in 2014. The addendum resulted in the formation of the Spring Mill Station Task Group (the “SMSTG”).

¹ Westfield-Washington Township Comprehensive Plan, pages 39-43.

² Appendix A of the Westfield-Washington Township Comprehensive Plan defines “Artisan Farm” as “[a] small farm with owners living on site that produces goods or services for the local table market (not the commodity market). This term includes but is not limited to orchards, tree nurseries, hay, vegetables, and the raising of limited numbers of animals such as horses, llamas, alpacas, sheep, goats, and chickens.



The Spring Mill Station Plan identifies a geographic area of the Spring Mill Station Plan and sets forth several recommendations pertaining to the future development and design of private developments and public infrastructure within the area that are suggested as being essential for achieving the Spring Mill Station vision described in the plan.

Although the subject property is located 1,900 feet +/- east of the Spring Mill Station study area, the Department encouraged the petitioner to meet with the SMSTG. The SMSTG has reviewed the proposed use and the Department anticipates the results of their review will be presented at the public hearing.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the April 12, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO³ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS

The Department recommends the Board motions and votes separately for each separate Variance of Development Standard.

Approval: If the Board is inclined to approve the variances, then the Department recommends approval with the conditions and findings as set forth below:

Variance #1: Petitioner requests the following landscaping standards not apply: Minimum Lot Landscaping Requirements (Article 6.8(K)); External Street Frontage Landscaping Requirements (Article 6.8(M)); Buffer Yard Requirements (Article 6.8(N)); Interior Parking Area Landscaping (Article 6.8(O)(1)).

Recommended Condition: No recommended condition.

Variance #2: Petitioner requests that Article 6.1(H)(3) through (7) not apply.

Recommended Condition: Garbage containers, trash receptacles, pallet storage areas, trash compactors, recycling areas, loading areas and other similar facilities shall be completely and permanently screened from view of Rights-of-way and adjoining properties, in accordance with Article 6.8(H)(2) of the Unified Development Ordinance, and shall not be located in an Established Front Yard or in any required Side or Rear Yard.



Variance #3: Petitioner requests the standards of Article 6.14(G)(7) (Off-street Parking Surfacing and Curbs) not apply.

Recommended Condition: Approval of this variance shall be subject to the approval of a Detailed Development Plan that ensures that adequate surface design, parking space delineation, and maintenance is provided (e.g., for storm water management, traffic circulation and management, and emergency equipment access), as deemed appropriate by the City (e.g., Department of Public Works, Fire Department, Economic and Community Development Department) and County Surveyor's Office.

Variance #4: Petitioner requests the standards of Article 6.3 (Architectural Standards) not apply.

Recommended Condition: Buildings on the property shall exceed or be substantially similar in quality and character to the Illustrative Character Exhibit.

Recommended Findings for Approval: If the Board is inclined to approve the variances, then the Department recommends the findings as set forth below, for each variance:

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the use is contemplated within the AG-SF1 District and the resulting improvements will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

2. **Criteria:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The variance should not have a negative impact on surrounding properties because: (i) the operation and design of the use are intended to mitigate the impact on surrounding properties; (ii) the use is otherwise contemplated as appropriate in the AG-SF1 District; (iii) the proposed use provides a complementary use and transition to the varying land uses of surrounding properties; (iv) the development and use of the site would otherwise comply with applicable regulations; and (v) the use is generally consistent with the goals and objectives of the Comprehensive Plan.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

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Exhibit 1

3. **Criteria:** The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Finding: Strict adherence to the zoning ordinance would result in the inability to improve and use the property for the proposed Agritourism Use in accordance with the Unified Development Ordinance and approved Special Exception. The proposed improvements would otherwise be permitted and comply with the Unified Development Ordinance and the variance is necessary to accommodate the unique characteristics of the Agritourism Use.

Denial: If the Board is inclined to deny a requested variance, then the Department recommends denying that specific variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.